

## 1 UNITED STATES DISTRICT COURT

## 2 DISTRICT OF NEVADA

3 ROY D. MORAGA,

Case No. 3:19-cv-00635-MMD-CLB

4 Plaintiff

ORDER

5 v.

6 DR. ALLEY, et al.,

7 Defendants

8  
9 I. DISCUSSION

10 Plaintiff, who is an inmate in the custody of the Nevada Department of Corrections  
11 ("NDOC"), has filed a motion for leave to file a supplemental brief. (ECF No. 5.) The  
12 motion includes several factual allegations and claims not included in Plaintiff's complaint  
13 and appears to be an attempt to supplement the complaint. (*Id.*) The Court will not  
14 piecemeal Plaintiff's complaint together from multiple filings. Plaintiff's operative  
15 complaint must contain all claims, defendants, and factual allegations that Plaintiff wishes  
16 to pursue in this lawsuit. As such, the Court denies Plaintiff's motion and grants Plaintiff  
17 leave to file a fully complete first amended complaint within 30 days. If Plaintiff does not  
18 file a fully complete amended complaint, the court will screen his complaint (ECF No. 1-  
19 1) and will not consider any allegations in Plaintiff's motion for leave to file a supplemental  
20 brief.

21 If Plaintiff chooses to file a first amended complaint, he is advised that a first  
22 amended complaint supersedes (replaces) the original complaint and, thus, the first  
23 amended complaint must be complete in itself. See *Hal Roach Studios, Inc. v. Richard*  
24 *Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that "[t]he fact that a party  
25 was named in the original complaint is irrelevant; an amended pleading supersedes the  
26 original"); see also *Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding  
27 that for claims dismissed with prejudice, a plaintiff is not required to reallege such claims  
28 in a subsequent amended complaint to preserve them for appeal). Plaintiff's first

1 amended complaint must contain all claims, defendants, and factual allegations that  
2 Plaintiff wishes to pursue in this lawsuit. Moreover, Plaintiff must file the first amended  
3 complaint on this Court's approved prisoner civil rights form, and it must be entitled "First  
4 Amended Complaint."

5 **II. CONCLUSION**

6 For the foregoing reasons, IT IS ORDERED that Plaintiff's motion for leave to file  
7 a supplemental brief (ECF No. 5) is denied.

8 IT IS FURTHER ORDERED that, if Plaintiff chooses to file a first amended  
9 complaint, Plaintiff will file the first amended complaint within 30 days from the date of  
10 entry of this order.

11 IT IS FURTHER ORDERED that the Clerk of the Court will send to Plaintiff the  
12 approved form for filing a § 1983 complaint, instructions for the same, and a copy of his  
13 complaint and his motion for leave to file a supplemental brief (ECF Nos. 1-1, 5). If  
14 Plaintiff chooses to file a first amended complaint, he must use the approved form and he  
15 will write the words "First Amended" above the words "Civil Rights Complaint" in the  
16 caption.

17 IT IS FURTHER ORDERED that, if Plaintiff does not timely file a first amended  
18 complaint, the Court will screen the original complaint (ECF No. 1-1) only and strike  
19 Plaintiff's motion for leave to file a supplemental brief (ECF No. 5) from the docket.

20

21 DATED THIS 20th day of May 2020.

22   
23 \_\_\_\_\_  
24 UNITED STATES MAGISTRATE JUDGE  
25  
26  
27  
28